

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

AARON SMITH,

Plaintiff,

NOTICE OF REMOVAL

v.

Civ. Action No.:

COLLECTO, INC. d/b/a/ EOS CCA,

Defendant.

PLEASE TAKE NOTICE that, pursuant to provisions of Section 1441 and 1446 of Title 28 of the United States Code, EOS CCA (“EOS”), by its attorneys, Phillips Lytle LLP, removes this action, alleging upon information and belief:

1. EOS is the defendant in this civil action brought on April 1, 2013, in the Supreme Court of New York, County of Erie, in which the action is pending.

2. The grounds for removal are:

a. This is an action of a civil nature in which the District Courts of the United States have original jurisdiction in that it arises under the laws of the United States within the meaning of 28 U.S.C. § 1331.

b. In particular, the complaint asserts a cause of action for an alleged violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, (“FDCPA”); specifically, 15 U.S.C. §§ 1692e & 1692d.

c. Therefore, this is an action over which this Court would have had original jurisdiction had it been filed initially in this Court, and removal to this Court is proper under 28 U.S.C. § 1441(a).

3. This notice of removal is timely under 28 U.S.C. § 1446(b) because the summons and complaint were received by EOS on April 8, 2013. This notice of removal is filed within 30 days of receipt of the summons and complaint and is timely under 28 U.S.C. § 1446(b).

4. Pursuant to L.R. Civ. P. 81(a)(3), an index of documents, and the dates thereof, filed in state court is attached as Exhibit A.

5. Pursuant to 28 U.S.C. § 1446(a), EOS attaches as Exhibit B to this notice, and incorporates by reference, a copy of plaintiff's summons and complaint, which are all of the process, pleadings, and orders served on EOS prior to removal.

Dated: Buffalo, New York
April 30, 2013

PHILLIPS LYTLE LLP

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